

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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FOUNDATION McCLURE,

Plaintiff,

-against-

ORDER
13-CV-2515 (JS) (GRB)

VINCENT F. DeMARCO, Suffolk
County Sheriff, JOSEPH P.
CARACAPPA, Suffolk County
Sheriff, and JOHN P. MYERRICKS,
Suffolk County Sheriff,

Defendants.

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SEYBERT, District Judge:

Pursuant to the Court's January 23, 2012 Order of Consolidation, the Court has reviewed the instant Complaint and finds that it relates to the subject matter of the Consolidated Action, Butler, et al. v. DeMarco, et al., 11-CV-2602 (JS) (GRB). Accordingly, this action shall be consolidated with the Consolidated Action. This affects Plaintiff in the following ways:

1. Plaintiff in this action shall become member of the certified classes in Butler (11-CV-2602);¹

¹ The classes are defined as follows:

an Injunctive Class comprised of all persons who, now or at any time in the future, are or will be detainees or prisoners in the custody of the Suffolk County Sheriff's Department and housed in the SCCF, with separate subclasses for those persons detained in Riverhead and Yaphank; and

a Damages Class comprised of all persons who are or were detainees or prisoners in the custody of the Suffolk County Sheriff's Department and housed in the SCCF and who were or will be released from the SCCF on or after April 5, 2009, with separate subclasses for those persons detained in Riverhead and Yaphank.

2. Any claims in the instant Complaint that are not included in the Consolidated Amended Complaint in Butler shall be severed (See Order of Consolidation at 17 (describing the process for proceeding with any severed claims after the resolution of the Consolidated Action)); and
3. Plaintiff, as a member of the class, shall be represented by pro bono counsel, Shearman & Sterling LLP.²

A copy of the Order of Consolidation and the operative complaint in Butler--the Consolidated Amended Complaint--are annexed to this Order.

If Plaintiff does not wish to proceed as a member of the Consolidated Action he must so indicate in a letter to the Court within thirty (30) days of receiving a copy of this Order. Upon receipt of such a letter, the Court will direct the Clerk of the Court to sever this Complaint from the Consolidated Amended Complaint and reopen and reinstate his individual pro se action.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of the Court is directed to mail a copy of this

² Counsel's mailing address is:

Lynch v. DeMarco Case Team
c/o Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022

Counsel's telephone number is: (212) 848-8023.

Order, the Order of Consolidation, and the Consolidated Amended Complaint to the pro se Plaintiff at his last known address.

SO ORDERED.

/s/ JOANNA SEYBERT
JOANNA SEYBERT, U.S.D.J.

Dated: June 3, 2013
Central Islip, New York